

September 29, 1975

SPECIAL ORDER BY REP. SAMUEL S. STRATTON (D-N.Y.)
ON ISSUES RAISED BY THE PIKE SUBCOMMITTEE

Mr. Speaker, as a new member of the CIA Subcommittee of the Armed Services Committee as well as a reserve Naval Intelligence Officer for the past 33 years, I want to discuss for a moment as carefully and thoughtfully as I can some of the very grave and disturbing issues that are soon to be presented to the members of this House for decision as a result of developments in the Pike Select Subcommittee on Intelligence. My only concern is to insure we have the best possible intelligence organization. I'm not opposed to investigating it and trying to improve it. I'm sure it has made mistakes, as is the case with most human institutions; and we should try to avoid those mistakes in the future. But the one thing I don't want to see happen is for us to carry out this investigation in a way that will destroy our intelligence operations, demean their achievements, and destroy the morale of their employees and their agents - especially at a crucial time in history when our physical capability for deterring war or conducting an adequate defense is steadily being eroded away, while that of our potential enemies is steadily on the increase. For that reason, Mr. Speaker, I welcome the decision of the Chairman of the Committee (Mr. PIKE) to bring to the House floor some time this week the question of the future course of his committee's deliberations. In view of recent developments in his inquiry, I

believe it is most urgent that the House have a full opportunity to examine what has happened and to clarify our mandate to that committee and give it more effective guidance for the future.

We had all hoped that we could wait until the committee had made its recommendations to us before facing up to the difficult and complex questions that need to be confronted in a democracy when it comes to intelligence matters. But apparently we are to have no such luxury; we are going to have to face up to some of these questions right away. And I believe that today is not too soon for us to start thinking about these complex questions.

First of all, Mr. Speaker, with regard to this first confrontation issue as to who can and who can't release classified, secret security information, I have been reading the papers over the weekend and I gather there has been some change on the part of the Chairman of the committee; and if so I welcome it. The morning paper says that the gentleman from New York (Mr. PIKE) has now agreed to abandon his insistence that every House committee, by majority vote, has the right to release any classified material it chooses to release. He is reported as having said that he will not release any classified material which the President himself personally certifies must be left confidential in the interest of national security; although he retains for the committee, as I understand it, the right to seek the release of such material in certain cases through the courts.

Well, that is a big step in the right direction, because the law on this issue seems to be quite clear. Nowhere is there provided in the Rules of the House any procedure either for the handling or for the release of classified information, although Rule XI, Section 712(k) 7 does forbid the release of any "evidence or testimony taken in executive session" without "the consent of the committee."

The President's authority in this regard stems from the basic grant of Executive Power to the President in Article II, Sections 2 and 3 of the Constitution. Under that authority President Truman issued Executive Order 10290 in 1951 establishing a system for the proper handling of classified information; this order was updated on March 8, 1972, by Executive Order 11652. Moreover Congress has on various occasions provided by statute for the safeguard of classified material and severe penalties against its disclosure to an unauthorized person. One statute, for example, forbids the publication or use of certain classified material "in any manner prejudicial to the safety or interest of the United States." Moreover in that statute the term "classified information" is defined to mean information which is "for reasons of national security, specifically designated by a U.S. Government Agency for limited or restricted dissemination or distribution."

Nowhere has Congress ever acted to withdraw this mandate. And so for us to assume for ourselves now the right to safeguard, or release, such information without any change in the existing

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statute (presumably we could enact such a statute if that is what we really want to do) is an action taken without any legal justification in my judgment. In fact, even the basic legislation setting up the Pike committee specifically directs that the committee "shall institute such rules and procedures as it may deem necessary to prevent...the disclosure, outside the select committee, of any information which would adversely affect the intelligence activities of the Central Intelligence Agency in foreign countries or the activities in foreign countries of any other department or agency of the Federal Government."

So there is really no legal basis, in the absence of any congressional action on the matter, for the contention that a majority of any House committee can all by itself completely wipe out a classification system set up by the President pursuant to a statute duly enacted by Congress.

Now when it comes to the matter of what information a committee of Congress is entitled to receive, Mr. Speaker, I am more inclined to agree with the gentleman from New York (Mr. PIKE). We have directed his committee to inquire into all matters relating to intelligence, and the Executive Branch has an obligation to supply that information to the committee. Even here, however, common sense dictates some limitations. When it comes to highly sensitive matters such as the names of agents operating in foreign countries, for example, or other highly classified sources of information, it is a long-standing rule of intelligence that the

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more people who know a secret, the less likely that secret will remain secret. Hence the "need-to-know" principle of intelligence compartmentalization. Does every member of Congress, all 535 of them, have to know the names of these agents whose lives literally hang on remaining anonymous? Does even every member of the Select Committee have to know? Does the staff really have to know? The Church committee in the Senate has solved this problem in the case of these items of extreme delicacy by having only the two senior members, Senator Church and Senator Tower, receive the information. Why can't this procedure be followed by the Pike committee rather than have a knock-down-and-drag-out Constitutional confrontation?

In the absence of such an agreement it is not hard to understand the reluctance of the Executive Branch in forwarding very highly sensitive materials to the Pike committee. Until today's statement there has not been, as far as I could see, any ~~clear-cut~~ recognition by the chairman or the committee of this important distinction between what the committee is entitled to see and what it can properly release to the public and to the world - communist as well as non-communist.

But Mr. Speaker, what disturbs me most is that as I understood it, it was just questions such as these - which are absolutely essential to an effective exercise of oversight responsibilities by the Congress over the CIA and other intelligence

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agencies - which were to be the primary and the priority mission of the Select Committee. As a House and as a Congress we were looking for serious recommendations as to how we could exercise oversight without compromising the intelligence functions which we were presumably trying to protect. Yet instead of that the House is now soon to be called upon to act on some of these very sensitive and far reaching matters without any prior detailed study and reflection by the committee to guide us - only the passions of a direct, publicized confrontation in the very early stages of the committee's inquiry.

What the House needs most and what the House wants most, as I see it, are answers to such questions as these: How much sensitive material can be made public? How should Congress handle classified material? How many members should be cut in on what the CIA does? Should the CIA budget be made public? These are all questions that Congress needs informed recommendations on. And we need them quickly. Already a group with the Appropriations Committee wants to try to answer one question before the Select Committee's report is even in.

Is it really necessary for us to have such a showdown at this stage? I realize that it is hard to resist the lure of going back over all the past accomplishments and the failures of our intelligence services. But there simply is not time to do all of this, especially in front of the television cameras and still cover all the legislative ground that needs to be covered in a

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reasonable and careful manner if we are only to avoid past mistakes, but move ahead to insure the security and survival of our nation in a still hostile and threatening world.

Mr. Speaker, intelligence like weather forecasting is by nature not an exact science. No intelligence service has ever batted 1000, and none ever will, just as no weather forecaster has ever done either. All we can do is just try as best we can to push back the frontiers of ignorance a little bit more every time.

We in Congress really must understand this fact, so that we do not come to expect the impossible from our intelligence agencies, and in so doing overlook their real accomplishments and mislead our people on what intelligence has contributed to our security. Of course the failures of intelligence are always writ large for everyone to see. But its greatest achievements, alas, especially those still in progress, cannot even be mentioned at all. Yet we have had such achievements, and we must not forget them - breaking the Japanese naval code in World War II, for example, which won the Battle of Midway for us; the deception that made possible the successful D-Day landing in Normandy; the U-2 flight over Russia; the Cuban missile photographs; and the discovery of the new Soviet naval base in Somalia.

I would be the first to acknowledge that CIA and our other intelligence agencies have made mistakes. But the job of the present Congressional investigation should not be to destroy those agencies, or to make people think that our capabilities in this very vital

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field are far less than those of our potential adversaries. Our job, I believe, should be to improve our intelligence agencies and increase the security and protection of our citizens. Mr. Speaker, I say it is time to get on with that primary job, and I do hope that that purpose will be the keynote of our deliberations this week on the future of the Pike committee.

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